

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1) ERIC COOPER, as Personal	)	
Representative of the Estate of	)	
Michael Dudley Cooper, deceased	)	
	)	
Plaintiff,	)	
	)	Case No. CIV-18-1060-J
v.	)	
	)	
1) KESTO SIMPSON, individually,	)	
2) THE CITY OF WALTERS, a	)	
Municipal Corporation,	)	
3) KENT SIMPSON, individually and in	)	
his official capacity, and	)	
4) JOHN DOES 1-10, individually,	)	
	)	
Defendants.	)	

**DEFENDANT, KENT SIMPSON'S**  
**UNOPPOSED MOTION TO SUBSTITUTE PARTY**

The Defendant, Kent Simpson, Sheriff of Cotton County, in his official capacity only ("Simpson"), respectfully requests this Court enter an Order, pursuant to FRCP 25 (d), allowing the substitution of "The Sheriff of Cotton County in his Official Capacity" as party-defendant herein. In further support of this request, Simpson states as follows:

1. Simpson is named in this suit in his official and individual capacities.
2. Simpson is no longer the Sheriff of Cotton County.
3. The Supreme Court in *Kentucky v. Graham*, 473 U.S. 159, 165-166 (1985) reiterated that official capacity suits are in reality an action against the entity of which the officer is an agent. As a result, the real party in interest for the official capacity claim is the entity.
4. The claims against Simpson in his individual capacity will remain.

5. Substitution of “The Sheriff of Cotton County in his Official Capacity” in place of Simpson as named party-defendant herein will clarify that Plaintiff’s official capacity claims are only against the Sheriff in his official capacity, regardless of who holds the position as Sheriff.

6. Counsel for Plaintiff has been contacted regarding the contents of this Motion and has no objection to it being granted.

7. Pursuant to LCvR 7.1(k), a proposed Order is submitted herewith.

For the above and foregoing reasons, the Defendant Kent Simpson, Sheriff of Cotton County, in his official capacity, requests this Court to substitute “The Sheriff of Cotton County in his Official Capacity” in place of Simpson as named party-defendant herein

Respectfully submitted,

/s/ James L. Gibbs, II

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***Attorney for Defendant, Kent Simpson,  
in his official capacity***

## **CERTIFICATE OF SERVICE**

I hereby certify that on March 4, 2020, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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